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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,672	09/30/2003	William Kress Bodin	AUS920030241US1	6744
34533 7590 10/17/2007 INTERNATIONAL CORP (BLF) c/o BIGGERS & OHANIAN, LLP P.O. BOX 1469 AUSTIN, TX 78767-1469			EXAMINER MANIWANG, JOSEPH R	
			ART UNIT 2144	PAPER NUMBER
			MAIL DATE 10/17/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/675,672

Applicant(s)

BODIN ET AL.

Examiner

Joseph R. Maniwang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 102***

2. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Cho et al. (U.S. Pat. No. 7,160,252), hereinafter referred to as Cho.
3. Regarding claims 1, 8, and 15, Cho disclosed a method and system comprising receiving; within the network, at least one user metric for a user (see column 3, lines 23-24; column 4, lines 60-67; column 6, lines 20-37; column 7, lines 1-23); receiving, from a device within the network, device content metadata describing content received by the device, the content varying according to interests of the user (see column 3, lines 23-24; column 4, lines 60-67; column 6, lines 20-37; column 7, lines 1-23); identifying an action in dependence upon the user metric and the device content metadata (see column 5, lines 20-26; column 6, lines 9-19, 65-67); and executing the action within the network (see column 5, lines 20-26; column 6, lines 9-19, 65-67).
4. Regarding claims 2, 9, and 16, Cho disclosed the method and system wherein receiving, within the network, at least one user metric for a user comprises receiving at least one metric from a metric sensor worn by the user (see column 3, lines 18-19; column 4, lines 57-60; column 9, lines 27-58).

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5. Regarding claims 3, 10, and 17, Cho disclosed the method and system wherein identifying an action in dependence upon the user metric and the device content metadata comprises retrieving an action ID from an action database in dependence upon the user content metadata and the user metric (see column 5, lines 20-26; column 6, lines 9-19, 65-67).
6. Regarding claims 4, 11, and 18, Cho disclosed the method and system wherein user content metadata comprises data embedded within a signal received by a device (see column 5, lines 1-11).
7. Regarding claims 5, 12, and 19, Cho disclosed the method and system wherein receiving device content metadata comprises receiving device content metadata from a first device and executing the action within the network administers a second device (see column 10, line 64 through column 11, line 19).
8. Regarding claims 6, 13, and 20, Cho disclosed the method and system wherein executing the action within the network comprises identifying a device class representing the device (see column 11, lines 27-54).
9. Regarding claims 7 and 14, Cho disclosed the method and system wherein executing the action within the network comprises identifying a communication class for the device (see column 11, lines 27-54).

### ***Response to Arguments***

10. Applicant's arguments filed 08/07/07 have been fully considered but they are not persuasive.

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11. Regarding claims 1-20 rejected under 35 U.S.C. 102(e) as being anticipated by Cho et al. (U.S. Pat. No. 7,160,252), Applicant traverses the rejection.

12. Regarding claim 1, Applicant asserts that Cho does not disclose "receiving, from a device within the network, device content metadata describing content received by the device, the content varying according to the interests of the user". Specifically,

Applicant asserts that Cho does not disclose the limitation "because Cho's physiological data received by the implantable sensors does not vary according to user interest."

Applicant argues that as detailed in the Specification, "content" as claimed is described as a television show or radio program, which "may vary according to user interest".

Examiner notes in this case that based on this description, as well as the claim language presented, the varying is thus circumstantial—that is, the variance is not a result of an aspect of the claimed system but rather a subjective quality of such received content based on different individual users of the system. This notion is well within reason in light of the claim language, which contains no provision for either how content is varied, or how the interests of a user are derived/obtained. It thus stands to reason that in Cho, which discloses a system for monitoring different patients with ranges of conditions ("monitoring a patient's respiration for respirator disturbances", see column 3, lines 15-67), yielded different (i.e., "varying") data monitored from different patients, the data determined by the particular user's condition. In other words, a patient (i.e., "user") of the system of Cho would clearly desire (i.e., have "interest" in) specific physiological data (i.e., "content") that varied according to that patient's condition. Examiner thus disagrees with Applicant's assertion that Cho "is always related to the same

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physiological measurement and does not vary according to user interest". In fact, Cho discloses the opposite, stating that a host of different data may be measured (see column 3, lines 39-67). Examiner further notes that the characterization of "content" as argued by Applicant is in no way detailed in the claim language. It is noted that the features upon which applicant relies (i.e., the characterization of "content" as a television show or radio program, etc.) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

13. Applicant further asserts that Cho does not disclose "receiving device content metadata describing content received by the device" as claimed. Applicant argues that metadata is not received from Cho's implantable sensors, as the claimed device content metadata describes content received by a device such as a television show, the type of show, the actors, as opposed to the show itself. Examiner reiterates that this characterization of the claimed "content" is not supported within the claims. The recitation of "content" in claim 1 provides no requirement on what constitutes content other than that it varies according to the interests of the user, which as argued above is present in the disclosure of Cho. Furthermore, Examiner submits that the recitation of "metadata" in the claims is broad, and is required by the claim language only to "describ[e] content received by the device". Cho discloses such a feature. Cho discloses that data describing received sensor data is derived/processed (see column 9, line 39 through column 10, line 34). Clearly, such derived data (e.g., "respiration rate")

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describes the content (i.e., "signals") received by the device from the sensors, and thus reads directly on the concept of "metadata" as claimed.

14. Applicant further asserts that Cho does not teach identifying an action in dependent upon the user metric and the device content metadata and executing the action within the network, as Cho's triggered event is not identified based upon device content metadata as claimed. Examiner disagrees, as clearly Cho discloses both metadata (as argued above) and triggering events (i.e., "identifying actions") based on the data and metadata received from the sensors (see column 5, lines 20-26; column 6, lines 9-19, 65-67).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

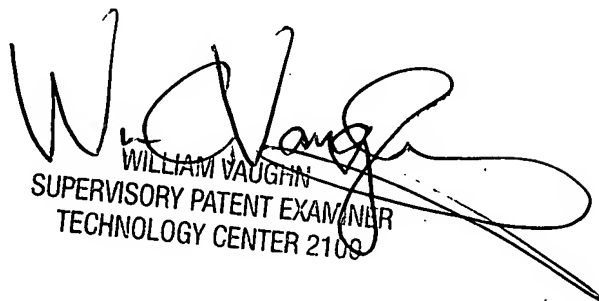
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph R. Maniwang whose telephone number is (571) 272-3928. The examiner can normally be reached on Mon-Fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William C. Vaughn can be reached on (571) 272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JM

  
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